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In the Matter of:	)	
	)	
Applications of Comcast Corp. and	)	MB Docket No. 14-57
Time Warner Cable, Inc. for Consent to	)	
Assign or Transfer Control of Licenses	)	
and Authorizations	)	
	)	

On behalf of 300,000 supporters and activists across the nation, the Center for Individual Freedom (hereinafter "CFIF") respectfully submits the following Comment in response to the Federal Communications Commission's (hereinafter "FCC's" or "Commission's") Request for Comments regarding its review of the proposed transfer of control of licenses and authorizations through acquisition by Comcast Corporation of Time Warner Cable, Inc.

In this case, the manifest answer is "no."

Accordingly, absent such a clear demonstration of loss of consumer choice, the presumption against unwarranted regulatory overreach into a mutually bargained-for transaction between private parties is not overcome. After all, mergers and acquisitions are a frequent and necessary element of our economic livelihood, an important part of the innovation and growth that characterize our history. And in no sector of our economy is that more true than the telecommunications sector.

Here, the most important reality that must guide the Commission's analysis is that the two parties *do not directly compete in a single area of the United States*. Not one.<sup>1</sup>

Accordingly, no American consumer faces the prospect of losing a competing choice for cable, broadband or telephone service as a result of the proposed transaction. Upon completion of the proposed transaction, Comcast would still serve less than 30% of the pay television market, thus remaining below the arbitrary ceiling that federal courts have twice invalidated.<sup>2</sup> It must also be emphasized that the market for video service remains progressively competitive. Two nationwide satellite providers already claim over 30 million subscribers and growing, in contrast with declining numbers of cable television subscribers.<sup>3</sup> Other

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<sup>1</sup> Comcast and Time Warner Cable Inc., Applications and Public Interest Statement, Applications of Comcast Corp. and Time Warner Cable Inc. For Consent to Transfer Control of Licenses and Authorization, MB Docket. No. 14-57 (April 8, 2014), at 127, n. 307.

<sup>2</sup> Time Warner Entm't Co. v. FCC, 240 F.3d 1126 (D.C. Cir. 2001); Comcast Corp. v. FCC, 579 F.3d 1 (D.C. Cir. 2009).

<sup>3</sup> See DIRECTV, DIRECTV Announces Second Quarter 2014 Results (July 31, 2014), <http://investor.directv.com/press-releases/press-release-details/2014/DIRECTV-Announces-Second-Quarter-2014-Results/default.aspx> (stipulating that DIRECTV has 20.231 million subscribers at the end of Q2 2014); DISH Network, DISH Network Reports Second Quarter 2014 Financial Results (Aug. 6, 2014), <http://about.dish.com/press-release/financial/dish-network-reports-second-quarter-2014-financial-results> (stipulating that DISH Network has 14.053 million subscribers at the end of Q2 2014).

market participants continue to build high-speed networks for video and Internet services in dozens of cities, and the FCC itself has recognized that online video has tripled revenues in just the past three years.<sup>4</sup> Moreover, when one considers wireless broadband, which now reaches 20 Mbps, 90% of Americans currently enjoy 4 or more high-speed Internet alternatives.

In addition to market share considerations, it must also be noted that the proposed transaction would result in improved service for current Time Warner customers. Comcast's speeds remain among the market's highest, reaching 505Mbps in the northeastern U.S. and at least 105 Mbps elsewhere.<sup>5</sup> In contrast, Time Warner's existing capabilities are much slower, reaching only 50 Mbps in most areas.<sup>6</sup> Further, Comcast's X1 and Xfinity platforms are among the industry's best, supporting over 300,000 film and television titles available for viewing via traditional linear television or streamed on demand through mobile or stationary screens.<sup>7</sup> Thus, current Time Warner customers themselves, as well as consumers living in the areas served by Time Warner but not current subscribers would enjoy enhanced service.

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<sup>4</sup> Federal Communications Commission, "Fact Sheet: Internet Growth and Investment," (Feb. 19, 2014), <http://www.fcc.gov/document/fact-sheet-internet-growth-and-investment>.

<sup>5</sup> Jeff Baumgartner, Comcast Raises Top-End Residential Broadband Tier to 505 Mbps, Multichannel News (Sept. 17, 2013), <http://multichannel.com/news/distribution/comcast-raises-top-end-residential-broadband-tier-505-mbps/261241>.

<sup>6</sup> See Time Warner Cable, Test Your Internet Speed from Home, <http://www.timewarnercable.com/en/support/speed-test.html> (noting that TWC's fastest available speed is "[u]p to 50 Mbps in most locations") (last visited Aug. 25, 2014).

<sup>7</sup> Carl Guardino, Silicon Valley CEO Supports the Comcast-Time Warner Cable Merger (April 15, 2014), <http://www.forbes.com/sites/realspin/2014/04/15/silicon-valley-ceos-support-the-comcast-time-warner-cable-merger/>.

Because we cannot know how the relevant market will evolve in either the near or short term, the instant proceeding demands appropriate regulatory discretion and humility on the part of the Commission. Video and Internet service continues to advance and evolve, and government policy should encourage rather than discourage private investment and competition among the multitude of providers and technologies competing for customers. Absent a clear showing of consumer harm, the presumption against excessive regulatory hubris and unwarranted interference simply is not overcome.

Accordingly, on behalf of 300,000 supporters and activists across the country, CFIF implores the Commission to exercise the proper degree of restraint and modesty in its review of this proposed transaction.

Respectfully submitted,

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August 23, 2014